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**SEP 03 2008**

**OFFICE OF PETITIONS**

In re Application of	:	
Oliver Okrongli	:	ON APPLICATION
Application No. 10/506,500	:	FOR
Filed: September 3, 2004	:	PATENT TERM ADJUSTMENT
Title: METHOD, SOFTWARE	:	
PRODUCT AND SYSTEM FOR	:	
CARRYING OUT UNIVERAL,	:	
COMPUTER-AIDED INFORMATION	:	
PROCESSING	:	

This is a decision on the "Application for Patent Term Adjustment" filed June 11, 2008. In effect, applicant requests that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from two hundred eighty-three (283) days to three hundred seventy-five (375) days.

The application for patent term adjustment is **DISMISSED**.

On March 14, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 283 days. The instant application for patent term adjustment was timely filed.<sup>1</sup> Applicant disputes the reduction of 92 days entered for the filing of the request for continued examination (RCE) on November 2, 2007. Applicant argues that the calculation does not take into account applicant's timely after-final reply filed June 29, 2007.

The record indicates that the patent issuing from this application is not subject to a terminal disclaimer.

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<sup>1</sup> PALM records indicate that the issue fee was also paid on June 11, 2008.

The calculation has been reconsidered, and found to be correct. In accordance with 37 CFR 1.704(b), the adjustment was properly reduced 92 days in connection with the request for continued examination (RCE) filed November 2, 2007. As the amendment filed June 29, 2007, was not in compliance with § 1.113(c), the period for reply to the final rejection mailed May 2, 2007, continued to run. Accordingly, the reduction began August 3, 2007, the day after the date that is three months after the date of mailing of the final rejection, and ended November 2, 2007, the date the RCE was filed. (It is noted that there has been no decision on the petition to withdraw the finality of the Office action filed December 21, 2007<sup>2</sup>).

The initial determination of patent term adjustment at the time of the mailing of the notice of allowance of two hundred eighty-three (383) days is correct.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

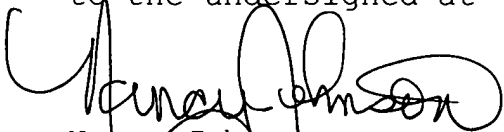
The fee will not be refunded. 35 U.S.C. 154(b)(3) provides for the Office to establish procedures for the application for and determination of patent term adjustment under 35 U.S.C. 154(b). The Office will provide an initial determination of the patent term adjustment in the notice of allowance. If, however, an applicant wishes to request reconsideration of the initial determination in the notice of allowance, the applicant must file an application for patent term adjustment. 35 U.S.C. 41(d) authorizes the Office to establish a fee to recover the estimated average cost of treating applications for patent term adjustment (as well as a fee for treating a request for reinstatement of patent term adjustment), and the cost of treating an application for patent term adjustment is about the same regardless of whether the Office's initial determination of patent term adjustment indicated in the notice of allowance is correct. In any event, refunding the fee under § 1.18(e) when the application for patent term adjustment is correct would: (1) require the Office to raise the fee set forth in § 1.18(e) (to enable the Office to recover the same aggregate amount); and (2) add further complication to a review process that must take place in a limited period of time.

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<sup>2</sup> The undersigned has referred this case to Technology Center AU 2192 for action on the petition filed December 21, 2007. Applicant should telephone Technology Center AU 571-272-2100 and ask to speak with a SPRE with respect to the status of the petition filed December 21, 2007.

The application is being forwarded to the Office of Data Management for issuance of a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

A handwritten signature in black ink, appearing to read "Nancy Johnson", is written over the typed name.

Nancy Johnson  
Senior Petitions Attorney  
Office of Petitions